

From: [Carr, Brian](#)
To: [Robert Fox](#)
Subject: FW: Waiver text
Date: Thursday, February 11, 2016 2:12:00 PM

Rob,

[See the wording below](#)

Respondent waives and agrees not to assert any claims, causes of action, defenses or challenges relating to the selection of the CSO controls contained in the September 27, 2013 ROD, including but not limited to its consistency with CERCLA and the National Contingency Plan, 40 CFR Part 300, and any change in the cost of the CSO controls in the September 27, 2013 ROD, including all costs for the Work in this Settlement Agreement; provided however that the waiver and agreement set forth in this Paragraph shall be null and void (i) as to any changes to the remedy in the 2013 ROD contained within an Explanation of Significant Differences ("ESD") under 40 CFR §300.435(c)(2)(i) or an amendment to the ROD under 40 CFR §300.435(c)(2)(ii), that results in further increased CSO control costs; or (ii) as to changes to the Preliminary Remediation Goal ("PRG") for PAH contamination to a higher value than that specified in the September 27, 2013 ROD without commensurate adjustment of the amount of solids capture required to be achieved by the CSO controls. Any remedy challenge asserted by Respondent shall be based solely upon the administrative record. Nothing in this Paragraph or Agreement shall limit Respondent's ability to advocate for changes in the remedy selected in the ROD, including but not limited to by virtue of an ESD or ROD Amendment.